

State of Hawaii  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Aquatic Resources  
Honolulu, Hawaii 96813

August 8, 2008

Board of Land and  
Natural Resources  
Honolulu, Hawaii

Request for Amendment to Papahānaumokuākea Marine National Monument Research Permit  
PMNM-2008-018, Previously Approved for Dr. Charles Littnan of the NOAA Pacific Island  
Fisheries Science Center, to Conduct Hawaiian Monk Seal Foraging Research Activities

The Division of Aquatic Resources (DAR) hereby submits a request for authorization and approval by the Board, to amend the Papahānaumokuākea Marine National Monument research permit previously approved for Dr. Charles Littnan of NOAA/PIFSC, pursuant to § 187A-6, Hawaii Revised Statutes (HRS), chapter 13-60.5, Hawaii Administrative Rules (HAR), and all other applicable laws and regulations.

AMENDMENT REQUEST:

The applicant requests that land access to Nihoa be added to his permit. This request was included in the original application, but extra time was needed for the consultation requirements for this activity. Access would include a small team camping overnight on the island to support activities permitted on PMNM-2008-018.

Nihoa is considered a possible site for relocation of young monk seals that are not likely to survive at other NWHI locations, so there is a need to learn more about the island in respect to monk seal ecology. The applicant has completed a Section 106 SHPD consultation, as well as a successful consultation with USFWS regarding refuge access and camping protocols. A USFWS Biologist would escort the monk seal team while on Nihoa.

Dr. Charles Littnan's current permit, PMNM-2008-018, was approved by the Board at its regular meeting on January 25, 2008. See attachment F-3a.

STAFF OPINION:

DAR staff is of the opinion that the amendment request would add value to the currently permitted research, without significant impact to resources of the NWHI State waters, and should be approved.

MMB OPINION:

The MMB is of the opinion that the amendment request would add value to the currently permitted research, without significant impact to Monument resources, and should be approved.

RECOMMENDATION:

"That the Board authorize and approve the amendment to Research Permit PMNM-2008-018, approved by the Board on January 25, 2008, to Dr. Charles Littnan, NOAA, Pacific Islands Fisheries Services Center."

Respectfully submitted,

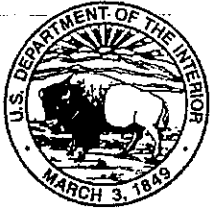


DAN POLHEMUS  
Administrator

APPROVED FOR SUBMITTAL



LAURA H. THIELEN  
Chairperson



**PAPAHĀNAUMOKUĀKEA  
MARINE NATIONAL MONUMENT  
RESEARCH PERMIT**

**Permittee:**

Dr. Charles Littnan  
NOAA Fisheries  
Pacific Islands Fisheries Science Center  
2570 Dole Street  
Honolulu, HI 96822

**Permit Number:** PMNM-2008-018

**Effective Date:** February 26, 2008

**Expiration Date:** December 31, 2008

**Project Title:** Hawaiian monk seal foraging research activities.

This permit is issued for activities in accordance with Proclamation 8031 ("Proclamation") establishing the Papahānaumokuākea Marine National Monument ("Monument") under the Antiquities Act of 1906, 16 USC §§ 431-433 ("Antiquities Act") and implementing regulations (50 CFR Part 404). All activities must be conducted in accordance with the Proclamation and the regulations (attached). No activity prohibited by the Proclamation or 50 CFR Part 404 is allowed except as specified below. Chapter 13-60.5, Hawaii Administrative Rules remains in effect for proposed activities in State waters.

Subject to the terms and conditions of this permit, the National Oceanic and Atmospheric Administration (NOAA), the State of Hawai'i, and the U.S. Fish and Wildlife Service (collectively, the Co-Trustees) hereby authorize the permittee listed above to conduct research activities within the Monument. All activities are to be conducted in accordance with this permit. The permit application is incorporated into this permit and made a part hereof; provided, however, that if there are any conflicts between the permit application and the terms and conditions of this permit, the terms and conditions of this permit shall be controlling.

**PERMITTED ACTIVITY DESCRIPTION:**

The following activities are authorized by this permit:

1. The permittee and the following people are authorized to enter the Papahānaumokuākea Marine National Monument and conduct activities under this permit: Robert Braun, Chad Yoshinaga, Jessica Lopez, and Simon Allen.

Papahānaumokuākea  
Marine National Monument  
6600 Kalaniana'ole Hwy  
Suite 300  
Honolulu, HI 96825

2. Swimming, snorkeling and SCUBA within Special Preservation Areas (as described in Permitted Activity Location below) necessary to conduct research activities and bathing for field camp staff (see permitted activity locations below) staff in accordance with this permit, and the permit application received October 1, 2007.
3. Anchoring of authorized vessels on sandy substrate only.
4. Removing, moving, taking, or attempting to remove, move or take Hawaiian monk seals (*Monachus schauinslandi*) for the purpose of better defining juvenile monk seal foraging ecology and fine scale habitat needs through the following listed activities:
  - a. Encounter: Involving the observation of seals from a distance.
    - i. Observation of behavior, either visually or with a camera.
    - ii. Recording presence, age/sex, and health status, either visually or with a camera.
  - b. Capture: Involving the handling of individual seals.
    - i. Capture using gear on the beach, such as a hoop net, or stretcher net. NOTE: Capture of live seals may include sedation with diazepam depending on procedures being conducted (i.e. health screening and instrumentation).
  - c. Inspect: Involving the handling and manipulating of individual seals after capture.
    - i. Recording measurements for size.
    - ii. Recording measurements for weight.
    - iii. Determination of sex.
    - iv. Conducting external exams to evaluate health status.
    - v. Conducting exams for external injuries, such as evidence of attempted predation, fishing line entanglement, or other.
    - vi. Recording existence of, and information from tag(s).
  - d. Sample (alive): Involving the handling and taking of physical samples from individual seals, alive after capture. NOTE: If the animal is alive, in addition to the external inspections above, the following may be collected:
    - i. Blood samples for total protein, packed cell volume, serum chemistry, and/or parasites and other desired considerations.
      1. A maximum of 30 blood samples (up to 90 mL) may be taken from Hawaiian monk seals
    - ii. Skin or blood for DNA identification and stable isotope analysis.
    - iii. Fecal, nostril, eye, and genital swabs for health and disease screening.

1. A maximum of 30 swabs x 5 orifices (anal, genital, mouth, nose, eye) may be collected during instrument deployment.
2. A maximum of 30 fecal samples may be collected.
- iv. Blubber biopsy for fatty acid and contaminant analysis:
  1. A maximum of 30 x 2 (per animal) blubber biopsies (approximately 0.6 cm in diameter, 2-3 cm in length) for a total of no more than 60 samples will be collected during instrument deployment.

NOTE: See item G. #1 below for detailed information on instrument deployment.

- e. Sample (dead): Involving the handling and taking of physical samples from individual seals that have deceased. NOTE: If the animal is dead, during external exam and/or necropsy, in addition to the above samples (other than blood), the following may be collected:
  - i. Food from gastrointestinal tract.
  - ii. Feces.
  - iii. Skeletal materials.
  - iv. Skin or other tissue for DNA identification, stable isotope, or other analyses.
- f. Tag Placement (passive): Involving the placement or removal of a physical tag either into tissue of the flipper, under the skin surface, or affixed to the fur of the individual seal.
  - i. Placement of external, plastic flipper tags;
    1. Time and weather permitting, external flipper tags may be placed on all previously untagged seals after health evaluation.
  - ii. Placement of Passive Integrated Transponder (PIT) tag injected under the skin that is able to be electronically scanned;

A maximum of 40 x 2 skin plugs for a total of no more than 80 samples from placement of external, plastic flipper tags, or Passive Integrated Transponder (PIT) tags may be collected from flipper tagging efforts of weanlings and adult Hawaiian monk seals.

- iii. Placement of marks either by bleach or epoxy resin on the fur (alphanumeric identification bleached white or black) exothermic epoxy resin.
- g. Tag Placement (active): Involving the placement of transmitters, Archival tags, and National Geographic Crittercams, attached to the dorsal pelage using a low exothermic epoxy resin.
  - i. Radio transmitter tag placement transmits globally using satellites or short-range using VHF frequencies attached to the fur. Transmitter tags used under this permit include a small VHF

transmitter and a GPS Satellite linked dive recorder which provides GPS quality foraging locations and monk seal dive behavior.

1. A maximum of 30 MK 10 Satellite Link GPS Dive Recorders) may be deployed on Hawaiian monk seals after health evaluation.
    - ii. Archival tag placement involves the collection and storing of temperature, depth, and time and/or location data.
    - iii. National Geographic Crittercam placement involves the collection of high resolution video and dive data that provide insight to the Hawaiian monk seals behavior, foraging habitat, prey base and the ecological community in which they live. NOTE: The animals will be captured three days later to remove the (Crittercam) videocamera.
  - h. Collection of a maximum of 100 Hawaiian monk seal scats opportunistically collected on the beach for the purpose of determining diet composition.
  - i. Visual habitat assessments through snorkeling in shallow water and through video camera deployment in deep water for the purpose of determining Hawaiian monk seal foraging habitat.
5. Erection of temporary field camps consisting of no more than four, two-person, three-season tents designated for sleeping and two canvas tents designated for kitchen and office/laboratory facilities. in the following locations:
- i. Southeast Island, Pearl and Hermes Atoll
  - ii. Lisianski Island
6. Concurrent ecosystem sampling collections for the purpose of collecting ecosystem data, using the following methods: expendable bathythermograph (XBT) in offshore waters only, conductivity-temperature depth (CTD) casts, additionally equipped with a Seapoint profiling fluorometer, Biospherical Instruments scalar irradiance (PAR) sensor, redundant dissolved oxygen sensors, and a 10-Niskin water bottle carousel rosette sampler.
7. Collection of sea surface temperature and salinity measurements using a hull-mounted thermosalinograph (TSG), for the purpose of measuring ocean temperature and salinity.
8. Acoustic surveys for the purpose of measuring biological backscatter, current velocity and direction using a Simrad EK60 echosounder system and an acoustic Doppler current profiler (ADCP).

No further disturbance of the historic, cultural, or natural resources of the Monument is allowed.

#### **PERMITTED ACTIVITY LOCATIONS:**

Other than entrance into the Monument, the permitted activities listed above are allowed at the following locations:

1. Special Preservation Area at Pearl and Hermes Atoll, including the islets of North, Little North, Southeast, Grass and Seal-Kittery
2. Special Preservation Area at Lisianski Island

#### **GENERAL TERMS AND CONDITIONS:**

In accordance with the Proclamation and applicable regulations, the permitted activities listed above are subject to the following general terms and conditions:

1. The permittee must sign and date this permit on the appropriate line below. Once signed and dated, the permittee must provide a signed original copy to the Monument official identified below. The permit becomes valid on the date the last Monument official signs the permit and shall remain valid for not more than one (1) year from that date.

Permit Coordinator  
Papahānaumokuākea  
Marine National Monument  
6600 Kalanianaʻole Hwy. Suite 300  
Honolulu, HI 96825

2. This permit is neither transferable nor assignable and must be carried by the permittee while engaging in any activity authorized by this permit. All other persons entering the Monument under the authority of this permit must provide the name of the permittee or the permit number to any authorized enforcement or management personnel upon request.
3. This permit may only be modified by written amendment approved by the Co-Trustees. Modifications to this permit must be requested in the same manner as the original request was made. Any modifications requested by the permittee, such as adding or changing personnel to be covered by the permit or to change the activities that are allowed, must be made in writing.
4. This permit is subject to suspension, modification, non-renewal, or revocation for violation of the Proclamation, implementing regulations, or any term or condition of the permit. Any verbal notification of a violation from an authorized

Monument representative may require immediate cessation of activities within the Monument. The issuance of a permit shall not constitute a vested or property right to receive additional or future permits. This permit may, in the sole discretion of the Co-Trustees, be renewed or reissued. However, there is no right to a renewal or re-issuance. Failure to fulfill permit requirements may affect consideration of future permit applications.

5. Permit terms and conditions shall be treated as severable from all other terms and conditions contained in this or any other ancillary permit. In the event that any provision of this permit is found or declared to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms or conditions of this permit.
6. This permit does not relieve the permittee of responsibility to comply with all federal, state and local laws and regulations. Activities under this permit may be conducted only after any other permits or authorizations necessary to conduct the activities have been obtained.
7. The permittee may be held liable for the actions of all persons entering the Monument under the authority of this permit.
8. All persons entering the Monument under the authority of this permit are considered under the supervision of the permittee and may be liable in addition to the permittee for any violation of this permit, the Proclamation and implementing regulations in conjunction with this permit. The permittee must ensure that all such persons have been fully informed of the permit terms and conditions prior to entry into the Monument. Each such person must provide written acknowledgment to the permittee, prior to entry into the Monument, that he/she has received a copy of the permit, agrees to abide by all applicable terms and conditions, and may be liable for violations of the permit. The permittee shall maintain all signed acknowledgments and submit them with the summary report described in General Condition #22.b. An acknowledgement form is attached.
9. Notification of entry into the Monument must be provided at least 72 hours, but no longer than one month, prior to the entry date. Any updates to the list of personnel must also be provided at least 72 hours before entering the Monument. Notification of departure from the Monument must be provided within 12 hours of leaving the Monument. Notification may be made via e-mail, or telephone by contacting: E-mail: [nwhi.notifications@noaa.gov](mailto:nwhi.notifications@noaa.gov); Telephone: 1-866-478-6944; or 1-808-395-6944. No other methods of notification will be considered valid.
10. The permittee and any person entering the Monument under the authority of this permit shall, before entering the Monument, attend a cultural briefing or view designated cultural informational materials on Papahānaumokuākea regarding the region's cultural significance and Native Hawaiians' spiritual and genealogical



connection to the natural and cultural resources. Persons entering the Monument at Midway Atoll may satisfy this requirement upon arrival.

11. All vessels (including tenders and dive boats), engines and anchor lines shall be free of introduced species prior to entry into the Monument. To ensure this, all vessels, engines and anchor lines shall be inspected for potential introduced species prior to departing the last port before entering the Monument. No later than 24 hours prior to entry, the permittee shall provide the Monument Permit Coordinator with a report prepared by the individual conducting the inspection that: a) sets forth when and where the inspection occurred; b) identifies any introduced species observed, including where found; c) summarizes efforts to remove any species observed; and d) certifies the vessel as free of all introduced species. The Monument Permit Coordinator shall review the report and, based on the review, may delay the entry into the Monument until all concerns identified by the Monument Permit Coordinator have been addressed.
12. All hazardous materials, biohazards and sharps, must be pre-approved by the Co-Trustees. For purposes of this permit, "hazardous material" has the same meaning as the definition found at 49 CFR §105.5 (U.S. Department of Transportation). All hazardous materials, biohazards and sharps must be stored, used, and disposed of according to applicable laws and Monument-approved protocols. The permittee, or a designated individual entering the Monument under the authority of this permit must be properly trained in the use and disposal of all such materials proposed. Proof of appropriate training may be required by the Co-Trustees. No such material may be left in the Monument after the departure of the permittee unless it has been previously approved by Monument staff. Immediately after the project is complete the permittee must remove all such materials from the Monument. The permittee will be responsible for all costs associated with use, storage, transport, training, disposal, or HazMat response for these materials.
13. All equipment or supplies brought into the Monument, or structures of any kind built in the Monument by the permittee are the responsibility of the permittee. All materials that are brought to the Monument by the permittee must be removed by the permittee except as otherwise permitted. Any permanent structures, equipment, or supplies that require maintenance, are determined to be unserviceable, or are a safety hazard, must be immediately repaired or removed from the Monument by the permittee. No structures, equipment, or supplies may be left in the Monument following the completion of the project except as listed in the permit.
14. If Monument staff are present at the field site, the permittee must meet with them before beginning permitted activities. Even with a valid permit, authorized Monument staff may prohibit entry into any location(s) within the Monument as they may deem appropriate to conserve or manage resources, particularly in areas where cumulative impacts of permitted activities are concentrated.

15. In order to facilitate monitoring and compliance, any person entering the Monument under the authority of this permit, including assistants and ship's crew shall, upon request by authorized Monument enforcement personnel, promptly: a) allow access to and inspection of any vessel or facility used to carry out permit activities; b) produce for inspection any sample, record, or document related to permit activities, including data, logs, photos, and other documentation obtained under, or required by, this permit; and c) allow inspection on board the vessel or at the permittee's premises of all organisms, parts of organisms, and other samples collected under this permit.
16. It is prohibited to possess or consume alcohol in the Hawaiian Islands National Wildlife Refuge in accordance with the refuge policy. Any violations will result in immediate removal of the offender from the Monument at the individual's own cost. Offenders may not be readmitted to the Monument.
17. All persons entering the Monument under the authority of this permit are responsible for the cost of removing themselves from the Monument at the conclusion of the term of the permit or upon revocation or suspension of the permit. All such persons are also responsible for the cost of removing themselves from the Monument in the event of a necessary medical evacuation, emergency evacuation, including weather, or for the cost of any necessary search and rescue operation.
18. Except as expressly required by applicable law, the Co-Trustees are not liable for any damages to equipment or injuries to the permittee and persons entering the Monument under the authority of this permit. The permittee and any person entering the Monument under the authority of this permit shall release, indemnify, and hold harmless the National Oceanic and Atmospheric Administration, the Department of Commerce, the U.S. Fish and Wildlife Service, the Department of the Interior, the United States Government, the State of Hawai'i, and their respective employees and agents acting within the scope of their duties from and against any claims, demands, actions, liens, rights, subrogated or contribution interests, debts, liabilities, judgments, costs, and attorney's fees, arising out of, claimed on account of, or in any manner predicated upon the issuance of this permit or the entry into or habitation upon the Monument or as the result of any action of the permittee or persons participating in the activity authorized by this permit. In the event that a government employee, acting in his official capacity, is the permittee, or is entering the Monument under the authority of this permit, then he shall be subject to all applicable federal and State laws that pertain to claims by or against him predicated upon the issuance of this permit or entry into or habitation upon the Monument.
19. Monument managers or their designees may verbally require the permittee to modify or cease activities not identified in this permit if, in the opinion of the managers or designees, such action is necessary to limit disturbance to or protect

Monument resources, to protect government equipment, or to ensure the safety of personnel. After providing such verbal instructions, the managers or designees will provide the permittee with a written modification, suspension or revocation to this permit at the earliest practicable opportunity. The failure to follow verbal instructions or modified permit terms, or to cease activities upon suspension or revocation of this permit, may constitute a violation of this permit, the Proclamation, the regulations, or other applicable law.

20. Disturbance of any cultural or historic property, including but not limited to Native Hawaiian cultural sites, burials, archaeological deposits, and WWII structures and features, such as stone walls and mounds, stone uprights, bunkers, batteries, camp sites, hospitals, housing areas, and radio towers; or the disturbance or collection of any historic or cultural materials and artifacts, including but not limited to bottles, dishes, cartridges, hospital materials, carvings, human remains, or Native Hawaiian bone or stone implements, found within the Monument, including the sale or trade in such items, is prohibited.
21. All Monument resources within the jurisdiction of the State of Hawai'i are held in trust under the Hawai'i State Constitution, Article XI, Sec. 1. The State of Hawai'i and the Government of the United States reserve ownership or control, as the case may be, of Monument resources, both living and nonliving, that may be taken or derived from those found in the Monument.
22. The permittee must satisfy the following reporting requirements:
  - a. For activities on State lands or within State waters, the permittee must submit a monthly report on the specified form.
  - b. The permittee must maintain a cruise log including, but not limited to: anchoring locations and small boat dive locations. The log must contain a description of cruise activities and the geographic locations of those activities. Within thirty (30) days after the end of the cruise or the expiration date of this permit, the permittee must submit the cruise log and a summary report of activities conducted under this permit. The permittee having authority over the vessel must maintain a daily vessel discharge log, which must be submitted with the cruise log.
  - c. Annual Report. The comprehensive annual report is a summary of all activities undertaken, including but not limited to: dates of all arrivals and departures from islands and atolls within the Monument, names of all persons involved in permitted activities, details of all specimens collected, handled, etc., any other pertinent information, GPS locations of all samples collected, transects, etc., results of work to date, copy of all data collected, and a proposed schedule of publication or production of final work. The report shall include a concise summary or abstract for use in Monument reports. Two hard copies and one electronic copy (Microsoft Word preferred, but not required), must be submitted to the Co-Trustees. The annual report is due by the end of the second week of

January of the calendar year that follows the year that the permit was in effect or before a new permit is issued, whichever comes first. Subsequent annual reports are required each year until all data collected under research permits are fully analyzed.

- d. The permittee must debrief the Co-Trustees following the completion of all activities in the Monument covered under this permit. The permittee must schedule the debriefing upon submitting the annual report.
  - e. The permittee must submit two copies of any article, publication, or other product created as a result of the information gained or work completed under this permit, including materials generated at any time in the future following expiration of this permit.
  - f. Any publications and/or reports resulting from activities conducted under the authority of this permit must include the notation that the activity was conducted under permit number PMNM-2008-018. This requirement does not apply to publications or reports produced by the news media.
  - g. All required submissions (including plans, logs, reports, and publications) shall be provided to the Monument official at the address indicated in General Condition #1.
23. All data acquired or created in conjunction with this permit will be submitted with the summary report, and annual report. Photographic and video material is considered data. The permittee retains ownership of any data, (including but not limited to any photographic or video material), derivative analyses, or other work product, or other copyrightable works, but the Federal Government and the State of Hawai'i retain a lifetime, non-exclusive, worldwide, royalty-free license to use the same for government purposes, including copying and redissemination, and making derivative works. The permittee will receive acknowledgment as to its ownership of the data in all future use. This requirement does not apply to data acquired or created by the news media.
24. Because photographic or video material that is created for personal use (i.e., not specifically acquired or created in conjunction with this permit) could unintentionally collect data that is also valuable for management purposes, the Co-Trustees reserve the right to request copies of any such material and the permittee agrees to provide a copy of such material within a reasonable time. The Co-Trustees may use such material for management purposes.
25. Any question of interpretation of any term or condition of this permit will be resolved by the Co-Trustees.

## **SPECIAL TERMS AND CONDITIONS:**

1. This permit is not to be used for nor does it authorize the sale of collected organisms. Under this permit, the authorized research activities must be for noncommercial purposes not involving the use or sale of any organism, by-products, or materials collected within the Monument for obtaining patent or intellectual property rights.
2. The permittee may not convey, transfer, or distribute , in any fashion (including, but not limited to, selling, trading, giving, or loaning) any coral, live rock, or organism collected under this permit without the express written permission of the Co-Trustees.
3. To prevent introduction of disease or the unintended transport of live organisms, the permittee must comply with the disease and transport protocol attached to this permit.
4. Tenders and small vessels must be equipped with engines that meet EPA emissions requirements.
5. Refueling of tenders and all small vessels must be done at the support ship and outside the confines of lagoons or near-shore waters in the State Marine Refuge.
6. No fishing is allowed in State Waters except as authorized under State law for subsistence, traditional and customary practices by Native Hawaiians.
7. Permittee must adhere to Papahānaumokuākea Marine National Monument Special Conditions and Rules for Moving Between Islands and Atolls and Packing for Field Camps attached to this permit.

Your signature below, as permittee, indicates that you accept and agree to comply with all terms and conditions of this permit. This permit authorizes only those activities listed above. This permit becomes valid on the date when signed by the last Monument Official. Please note that the expiration date on this permit will not be extended by a delay in your signing below.

---

Dr. Charles Littnan  
Leader, Hawaiian Monk Seal Research Program  
Protected Species Division  
NOAA, Pacific Islands Fisheries Science Center

Date

Attachments (6):

1. Proclamation 8031, June 15, 2006
  2. 50 CFR Part 404
  3. Chapter 13-60.5 Hawaii Administrative Rules
  4. Maps of the Papahānaumokuākea Marine National Monument
  5. Disease and Introduced Species Prevention Protocol for Permitted Activities in the Marine Environment, Papahānaumokuākea Marine National Monument
  6. Papahānaumokuākea Marine National Monument Special Conditions and Rules for Moving Between Islands and Atolls and Packing for Field Camps
-

---

Laura H. Thielen  
Chairperson  
Board of Land and Natural Resources  
Department of Land and Natural Resources

Date

---

Susan White  
Superintendent  
U.S. Fish and Wildlife Service  
Papahānaumokuākea Marine National Monument

Date



T. 'Aulani Wilhelm

Date

Superintendent

National Oceanic and Atmospheric Administration

Papahānaumokuākea Marine National Monument

